

46 Am. Jur. 2d Judges § 103

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

2. Interests as Grounds for Disqualification

b. Particular Interests as Grounds for Disqualification

(3) Association with Organization or Business

§ 103. Judge's status as officer, director, general partner, managing member, or trustee of party as grounds for disqualification

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West's Key Number Digest

West's Key Number Digest, [Judges](#)  42, 45

A.L.R. Library

[Interest of judge in an official or representative capacity, or relationship of judge to one who is a party in an official or representative capacity, as disqualification, 10 A.L.R.2d 1307](#)

The Code of Judicial Conduct states that a judge should disqualify him- or herself if he or she is an officer, director, general partner, managing member, or trustee of a party in the proceeding.¹ A judge who holds one of these positions in an ordinary business corporation is disqualified to hear a case in which the corporation has a pecuniary interest, because his or her duty to promote the corporation's welfare clashes with the impartiality required of a judge.² However, a judge is not disqualified where he or she is a director and stockholder in a corporation originally a party to an action but dismissed by the other party before any action by the judge.³

Caution:

Pursuant to the Code of Judicial Conduct, a judge will not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in (1) a business closely held by the judge or members of the judge's family, or (2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.⁴

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Footnotes

- 1 A.B.A. Code of Judicial Conduct, Canon 2, Rule 2:11(A)(2)(a).
- 2 [Gaer v. Bank of Baker](#), 111 Mont. 204, 107 P.2d 877 (1940); [Appeal of Askounes](#), 144 Pa. Super. 293, 19 A.2d 846 (1941); [Lindsley v. Lindsley](#), 152 S.W.2d 415 (Tex. Civ. App. Dallas 1941), judgment rev'd on other grounds, 139 Tex. 512, 163 S.W.2d 633 (Comm'n App. 1942).
As to disqualification based on pecuniary interest, generally, see § 92.
- 3 [Holland v. Morgan & Peacock Properties Co.](#), 168 Cal. App. 2d 212, 335 P.2d 773 (1st Dist. 1959).
As to the issue of disqualification of a judge when the judge is a stockholder and the interests of the corporation are at issue in the matter before him or her, see § 104.
- 4 A.B.A. Code of Judicial Conduct, Canon 3, Rule 3:11(B).

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